HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION No.21546 of 2006

Dated:01.12.2006

Between:

Chodem Buchanna.

…Petitioner

and

Mandal Revenue Officer and another.

…Respondents

HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION No.21546 of 2006

ORDER:

The petitioner statedly is a resident of Turpu Regulakunta Village of Buttaigudem Mandal in West Godavari District. He filed instant Writ Petition seeking a writ of mandamus directing the first respondent, Mandal Revenue Officer (MRO), Buttaigudem Mandal, to issue pattadar pass books and title deeds to the petitioner in respect of the lands in R.S.Nos.1442/1, 1453, 1455, 1448, 1447, 572/2 totally admeasuring an extent of about Acs.54.00.

In brief, the case of the petitioner is that he and his brothers were enjoying the subject land for over a decade, that on an application made by the petitioner, the Settlement Officer, Eluru, granted a ryotwari patta under Section 7(1) read with Section 9 of the Andhra Pradesh (Scheduled Areas Ryotwari Settlement) Regulation, 1970 (hereafter called, Regulation II of 1970), that he made an application to the first respondent in July 2005 and sent number of reminders requesting for grant of Pattadar Pass Book (PPB)/Title deed (TD), in vain.

At the stage of admission itself, the second respondent got impleaded himself claiming to be the owner of the land by reason of the proceedings issued by the Settlement Officer under Regulation II of 1970. The MRO also filed a detailed counter affidavit, and therefore,

the matter is being disposed of at the admission stage.

In the counter affidavit filed by the MRO, the allegation that the Settlement Patta was granted in favour of the petitioner is denied. It is stated that the petitioner is owner of land comprised in R.S.Nos.1432-2, 1433-5, 1435-3 and 1477-6 totally admeasuring Acs.6.14 cents in which a PPB and TD was already issued. It is further stated that there is a dispute regarding the subject land among eight persons of Buttaigudem including the petitioner and the second respondent, and when the same was reported to the Joint Collector, necessary instructions were issued. Pursuant thereto, the MRO and the Deputy Surveyor measured the land in the presence of the petitioner and other claimants. Subsequently, a notice dated 17.11.2005 was sent to the petitioner through the Village Secretary. He refused to receive the notice and the Village Secretary returned the notice after obtaining the signature of the witness. Though the petitioner was asked to submit the necessary record in proof of his allegation, he did not produce any records. Therefore, the MRO conducted panchanama on 30.11.2005 in the presence of Sub Inspector of Police, Buttaigudem, when it was informed that the petitioner and his family members are creating trouble to the enjoyment of the land by Kosuri Sriramulu and others. It is also alleged that the petitioner, along with the applications, enclosed a xerox copy of the order of the Settlement Officer in respect of the land in R.S.No.1442/1 admeasuring Ac.1.32 hectares, but did not produce other documents even after issue of notice. The second respondent and others submitted the attested copies of the orders passed by the Settlement Officer under Regulation II of 1970 on 11.08.2005, and that the petitioner is not in possession of the land. Therefore, he is not entitled for grant of PPBs and TDs for the subject land.

Learned Counsel for the petitioner strenuously submits that the claim of the second respondent and his brothers was not accepted totally and their claim for major chunk of the land was rejected. He also submits that the second respondent and his brothers are not residents of Turpu Regulakunta Village where the land is situated and at their behest PPB is denied to them. Learned Assistant Government Pleader for Revenue (General-A) refutes this contention.

Learned Counsel for the second respondent has taken this Court through various orders passed by the Settlement Officer, Eluru, under Regulation II of 1970 on 31.08.1977 and 29.03.1985. The learned Counsel also has placed reliance on the proceedings of the Special

Deputy Collector (Tribal Welfare), Kota Ramachandrapuram, arising under Section 3(2) of the Andhra Pradesh Schedule Areas Land Transfer Regulation, 1959 (hereafter called, Regulation I of 1959) against the father of the second respondent, second respondent and his brothers wherein it was held by the said authority that the possession and occupation of the subject lands by the second respondent and others is not in violation of Regulation I of 1959. Learned Counsel therefore, submits that in the proceedings taken under Regulation II of 1970 as well as Regulation I of 1959 the claim of the second respondent has been upheld, and therefore, the MRO is justified in not entertaining the application filed by the petitioner. He submits that unless and until it is shown that a public authority has a statutory duty, a mandamus cannot be issued from this Court. He also placed reliance on the decisions of this Court in **Javvadi Samba Murthy v. The Agent to the Government**[1], **Pandi Ramulu v. Agent to Government, E.G.District, Kakinada**[2], **Sadanapalli Ramachandra v. The Special Deputy Collector**[3] and **N.Appa Rao v. Agency Divisional Officer**[4].

The petitioner came to this Court complaining inaction on the part of the MRO in issuing PPBs and TDs in respect of the subject land. Though the petitioner was granted ryotwari patta vide orders in S.R.No.227 of 1976 long back, why the petitioner did not approach the MRO for grant of PPB is not explained. Admittedly, the petitioner approached the MRO only in July 2005 and went on sending reminders for PPBs. Be that as it is, the MRO has conducted enquiry, be it in relation to the application made by the petitioner or as per the directions issued by the Joint Collector, and gave a notice to the petitioner. Though allegedly a notice was issued, the petitioner refused, and therefore, in all probabilities the MRO could not proceed further. In this background, this Court cannot find fault with the MRO. It is now for the petitioner to produce evidence in proof of his ownership and possession before the MRO. As and when the same is produced, it is for the MRO to conduct enquiry in accordance with the Andhra Pradesh Rights in Land and Pattadar Pass Books Act, 1971, and the Andhra Pradesh Rights in Land and Pattadar Pass Books Rules, 1989, and pass appropriate orders. In this Writ Petition no relief, however, can be granted to the petitioner.

The Writ Petition, with the above observations and directions, is accordingly dismissed. No costs.

(V.V.S.RAO, J)

01.12.2006
vs

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[1] 1983(2) APLJ 96

[2] 1998(1) ALD 783

[3] 1978(2) APLJ 244

[4] (1988)2 APLJ 9 (SNRC)